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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 JPMORGAN CHASE BANK, N.A., et al.,
8 Plaintiffs,
9 v.
10 GDS FINANCIAL SERVICES, et al.,
11 Defendants.

Case No. 2:17-cv-02451-APG-PAL

ORDER

(Motion Stay Disc – ECF No. 29)

12 Before the court is plaintiffs’ Motion for Stay Pending Decision of Motion for Summary
13 Judgment (ECF No. 29). The Motion for Summary Judgment (ECF No 28). No opposition has
14 been filed, and the time for filing an opposition has expired.

15 This is a quiet title/declaratory relief action arising out of an HOA foreclosure sale in which
16 the Federal Home Loan Mortgage Corporation (“Freddie Mac”) claims and interest. JPMorgan
17 Chase (“Chase”) is the record beneficiary of the deed of trust for the property at issue. The motion
18 for summary judgment is based on the federal foreclosure bar codified at 12 U.S.C. § 4617(j)(3)
19 which preempts the Nevada HOA foreclosure statute from extinguishing an interest held by
20 Freddie Mac or Fannie Mae, (“the Enterprises”) even if the servicer is named as the record deed
21 of trust beneficiary.

22 The Ninth Circuit has thrice held that a Freddie Mac protected property interest survives
23 an HOA sale when a servicer or nominee acting on behalf of Freddie Mac appears as record deed-
24 of-trust beneficiary. *See Berezovsky v. Moniz*, 869 F.3d 923 (9th Cir. 2017); *Elmer v. JPMorgan*
25 *Chase & Co.*, 707 F. App’x 426 (9th Cir. 2017); *Saticoy Bay, LLC v. Flagstar Bank, FSB*, 699 F.
26 App’x 658 (9th Cir. 2017). The Ninth Circuit has also found that materially identical evidence
27 that Chase and Freddie Mac have produced in support of their pending summary judgment
28 motion—business records and declaration testimony of the Enterprises—are sufficient for a district


1 court to find that the Enterprise has a protected property interest and grant summary judgment. In
2 reaching its decision, the Ninth Circuit specifically stated that its *Berezovsky* decision should
3 resolve “the outcome[]” of “multiple lawsuits” in Nevada arising out of HOA Sales. *Berezovsky*,
4 869 F.3d at 929.

5 Having reviewed and considered the matter, the court will grant the stay as requested.

6 **IT IS ORDERED** that:

- 7 1. Plaintiffs’ Motion for Stay Pending Decision of Motion for Summary Judgment (ECF
8 No. 29) is **GRANTED**.
- 9 2. The parties shall have 14 days from the entry of the motion for summary judgment to
10 submit an amended proposed discovery plan and scheduling order to get this case ready
11 for trial should any claim survive.

12 DATED this 19th day of April, 2018.

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15 PEGGY A. LEEN
16 UNITED STATES MAGISTRATE JUDGE
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